

# City of Detroit

## CITY COUNCIL

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ANNE MARIE LANGAN  
DEPUTY DIRECTOR  
(313) 224-1078

TO: COUNCIL MEMBERS

FROM: Irvin Corley, Jr., Director

DATE: April 28, 2009

RE: The Amended and Restated Resolution Authorizing the Issuance of \$97.2 million in Series 2009 Tax Anticipation Notes (**Recommend Approval**) *Line Item 3 on Today's New Business Agenda*

Chase Bank is willing to do a private placement regarding the proposed Tax Anticipation Notes (TANs), which means that Chase is considering purchasing the \$97.2 million in TANs outright, thereby allowing the City to issue the notes without the need for a rating and to save on interest and note issuance costs.

However, Chase will not purchase the TANs until the City Council passes an ordinance codifying the interest rate Swap termination settlement associated with the City's 2006 Pension Obligation Certificates (POCs). This ordinance could be approved by Council within a month.

Therefore, it is still prudent for your Honorable Body to consider authorizing the resolution to issue the TANs so that they can be privately placed with Chase as soon as possible after the ordinance is passed by Council. The TANs are expected to be issued by the end of June 2009.

In addition, the amended and restated resolution enables the City to pledge income tax revenue as additional collateral whenever property tax revenue becomes deficient in supporting the repayment of the TANs.

Attachment I represents the authorizing resolution for Council's consideration.  
Attachment II represents responses to earlier questions we had on the resolution.

We recommend approval of the resolution.

### Attachments

cc: Council Divisions  
Auditor General's Office  
Joseph Harris, Chief Financial Officer

**Pamela Scales, Budget Director  
Arese Robinson, Mayor's Office**

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CITY OF DETROIT  
FINANCE DEPARTMENT  
ADMINISTRATION

# Attachment I

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DETROIT, MICHIGAN 48226  
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March 27, 2009

Honorable City Council:

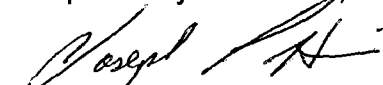
**RE: Amended and Restated Resolution authorizing the Issuance and Sale of not to exceed \$97,195,000 Tax Anticipation Notes, Series**

Detroit City Council adopted a resolution on December 9, 2008 authorizing the issuance of the Series 2009 Tax Notes. It was originally anticipated that the Series 2009 Revenue Notes and the Series 2009 Tax Notes would be issued concurrently under the terms of the Original Note Resolution.

It is necessary for the City Council to amend and restate the Original Note Resolution with respect to the Tax Notes, in order to sell the Tax Notes under the most favorable conditions for the City. In addition to ad valorem property taxes, the Series 2009 Tax Notes should also be secured by and payable from a pledge of income taxes levied by the City.

It is anticipated that the sale will occur April 2009. The attached Resolution has been prepared by Bond Counsel and I recommend its adoption by your Honorable Body, with waiver of reconsideration, at your next formal session.

Respectively submitted,

  
Joseph L. Harris  
Finance Director

JLH/dc

Cc: Londell Thomas  
David Whitaker  
Irvin Corley  
Patricia Luckett

**AMENDED AND RESTATED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DETROIT, COUNTY OF WAYNE, STATE OF MICHIGAN, AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF DETROIT OF NOT TO EXCEED \$97,195,000 TAX ANTICIPATION NOTES, SERIES 2009, FOR THE PURPOSE OF PAYING OPERATING EXPENDITURES OF THE CITY IN THE CURRENT FISCAL YEAR IN ANTICIPATION OF THE COLLECTION OF TAXES FOR THE NEXT SUCCEEDING FISCAL YEAR AND MAKING AN IRREVOCABLE LEVY OF AN OPERATING TAX BY LAW FOR THE NEXT SUCCEEDING FISCAL YEAR OF THE CITY TO PAY SUCH NOTES UPON MATURITY; PRESCRIBING THE FORM OF THE NOTES; PROVIDING FOR THE RIGHTS OF THE OWNERS OF THE NOTES AND ENFORCEMENT THEREOF; DETERMINING OTHER MATTERS RELATING TO THE ISSUANCE AND SALE OF THE NOTES; AND DELEGATING TO THE FINANCE DIRECTOR OF THE CITY THE AUTHORITY TO MAKE CERTAIN DETERMINATIONS AND TAKE CERTAIN ACTIONS WITH RESPECT TO THE NOTES TO ASSURE THAT THE NOTES MAY BE SOLD UNDER THE MOST FAVORABLE CONDITIONS FOR THE CITY.**

By Council Member \_\_\_\_\_:

WHEREAS, the City of Detroit, a municipal corporation (the "City") of the State of Michigan (the "State"), has been duly created under the provisions of the Home Rule City Act of the State, Act 279, Public Acts of 1909, as amended ("Act 279"), pursuant to which the City has the comprehensive home rule power conferred upon it by Act 279 and the Constitution of the State of 1963 (the "Constitution"), subject only to the limitations on the exercise of that power contained in the Constitution, by statute of the State or by provisions of the City Charter of the City (the "City Charter"); and

WHEREAS, pursuant to the City Charter, the City may borrow money for any purpose within the scope of its powers, may issue bonds or other evidences of indebtedness therefor, and may, when permitted by law, pledge the full faith credit and resources of the City for the payment of those bonds or other evidences of indebtedness; and

WHEREAS, the State has enacted Act 34, Public Acts of 2001, as amended ("Act 34") relative, inter alia, to the borrowing of money and the issuance of certain debt and securities, to provide for tax levies, to authorize the issuance of certain debt and securities and to generally govern municipal finance practices in the State; and

WHEREAS, the City is defined to be a "municipality" under Act 34 that has the power to issue a security such as a bond, note, contract, obligation or other similar instrument under the provisions of Act 34; and

WHEREAS, pursuant to Act 34, Act 279 and the City Charter, the City may issue short-term municipal securities payable in the next succeeding fiscal year to pay for operating expenditures of the City, as defined in Act 34, for the current fiscal year (2008/2009) in anticipation of the collection of operating taxes of the City, consisting of (i) ad valorem property taxes levied on all taxable property in the City in the next succeeding fiscal year (2009/2010)

(the "Pledged Property Taxes"), and (ii) City income taxes levied and collected from time to time in the next succeeding fiscal year (2009/2010) (the "Pledged Income Taxes" and, together with the Pledged Income Taxes, the "Pledged Taxes"); and

WHEREAS, on December 9, 2008, this City Council adopted a resolution (the "Original Note Resolution") authorizing the issuance of the Series 2009 Tax Notes, as hereinafter defined, and revenue notes (the "Revenue Notes") payable in anticipation of revenue sharing payments to be received by the City in the next succeeding fiscal year under the Glenn Steil Revenue Sharing Act of 1971, Act 140 Public Acts of Michigan, 1971, as amended; and

WHEREAS, it was originally anticipated that the Revenue Notes and the Series 2009 Tax Notes would be issued concurrently under the terms of the Original Note Resolution, however, the City Council has determined, upon information and advice provided by the Finance Director of the City (the "Finance Director"), that in order to sell the Tax Notes with the most favorable conditions for the City, in addition to ad valorem property taxes levied for operating purposes, the Series 2009 Tax Notes should also be secured by and payable from a pledge of income taxes levied by the City to pay a portion of City operating expenses; and

WHEREAS, in order to authorize the Tax Notes to be secured by income taxes it is necessary for this City Council to amend and restate the Original Note Resolution with respect to the Tax Notes; all other provisions of the Original Note Resolution, with respect to the Revenue Notes, to remain in full force and in full effect; and

WHEREAS, under Act 34, this City Council may adopt a resolution authorizing the issuance of a municipal security in anticipation of the collection of Pledged Taxes (the "Series 2009 Tax Notes" or the "Series 2009 Notes"), which resolution shall contain an irrevocable provision for the levying of taxes in and for the next succeeding fiscal year of the City (2009/2010) in order to repay the Series 2009 Tax Notes from the receipt of such Pledged Taxes; and

WHEREAS, under Act 34, the issuance of tax notes to pay operating expenditures of the City shall not exceed 50% of the operating tax levy for the current fiscal year or, if the operating tax levy for the next succeeding fiscal year is determined, then 50% of the levy for next succeeding fiscal year (the "Tax Note Test"); and

WHEREAS, the operating tax levy for the next succeeding fiscal year has not yet been determined; and

WHEREAS, on June 30, 2008, the City issued \$89,685,000 of its Tax Anticipation Notes, Series 2009 (the "Outstanding TANS"), which mature on March 31, 2009, are payable from taxes payable to the City during the City's 2008/2009 fiscal year, and therefore are not governed by this Resolution and are not subject to the Tax Note Test provided herein; and

WHEREAS, this City Council desires to determine that Series 2009 Tax Notes shall be issued to pay for a portion of the operating expenditures of the City for the current fiscal year, to prescribe the form of the Series 2009 Tax Notes to be issued, and to provide for the security for

such notes and the rights of the purchasers and owners of such notes and for the enforcement thereof; and

WHEREAS, in connection with the sale, execution and delivery of the Series 2009 Tax Notes authorized herein, this City Council desires to delegate to the Finance Director the power to make certain determinations delegable to him for and on behalf of this City Council pursuant to Section 315(1(d) of Act 34 within the limitations provided by this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Detroit as follows:

Section 1. Definitions. Except as defined in the above recitals or when otherwise indicated by the context, the following terms when used in this Resolution shall have the following meanings:

“Authorized Denomination” means \$5,000 or any integral multiple thereof.

“Bond Depository” means DTC or any other securities depository selected by the City which agrees to follow the procedures required to be followed by such securities depository in connection with the Series 2009 Notes.

“Business Day” means any day except Saturday, Sunday or any day on which banking institutions located in the States of New York or Michigan are required or authorized to close or on which the New York Stock Exchange is closed.

“Delivery Date” means the date or dates of delivery of the Series 2009 Notes initially issued under this Resolution.

“DTC” means The Depository Trust Company and its successors and assigns.

“Issuance Costs” means items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale and issuance of the Series 2009 Notes, as the case may be, including without limitation, any underwriters’ discount or fee, legal, financial, printing, and other expenses incident thereto, and payment for any credit enhancement.

“Maturity Date” means the date or dates determined in the Sale Order by the Finance Director during the 2009/2010 fiscal year of the City, but in any event a date or dates not later than June 30, 2010.

“Note Fund” means the “Note Proceeds Fund Series 2009” established in accordance with Section 8 of this Resolution, relating to the receipt of the proceeds of sale of the Series 2009 Notes.

“Note Repayment Fund” means the “Note Repayment Fund Series 2009” established pursuant to Section 8 hereof, comprised of two subaccounts, the Pledged Property Tax Account and the Pledged Income Tax Account.

“Operating Year” means the City’s fiscal year, the annual period from July 1 through June 30.

“Person” means a natural person, firm, association, corporation, public body or any other legal entity.

“Pledged Income Taxes” means the Pledged Income Taxes as defined in the recitals hereto.

“Pledged Property Taxes” means the Pledged Property Taxes as defined in the recitals hereto.

“Pledged Taxes” means the Pledged Property Taxes and the Pledged Income Taxes.

“Purchase Contract” means one or more contracts for sale of the Series 2009 Notes to the Underwriters thereof.

“Regular Record Date” means the fifteenth day of the month immediately preceding the applicable Maturity Date.

“Representation Letter” means the blanket Letter of Representations from the City and the Transfer Agent to DTC dated on or before the date of delivery of the Series 2009 Notes.

“Sale Order” means any of one or more orders of the Finance Director making determinations and authorizing acts consistent with this Resolution necessary and appropriate to complete the sale, execution and delivery of the Series 2009 Notes and/or such other matters as are authorized herein.

“Series 2009 Notes” means the Series 2009 Tax Notes.

“Series 2009 Tax Notes” means the Tax Anticipation Notes, Series 2009 authorized by Section 401 of Act 34 and this Resolution, consisting of fixed or variable rate short-term municipal securities secured under the provisions of Act 34, this Resolution, and the Sale Order, which may be issued in one or more separate series with appropriate series designations, all as finally determined in the Sales Resolution.

“Transfer Agent” means U. S. Bank National Association.

“Trustee” means U.S. Bank National Association, a national banking association, not in its individual capacity, but solely as trustee for the receipt of Set Aside Amounts.

“Underwriters” means such underwriters, or if the Series 2009 Notes are privately placed, the bond purchaser, as shall be designated in the Sale Order.

Section 2. Necessity; Public Purpose. It is hereby determined to be necessary for the public health, benefit, safety and welfare of the City to issue the Series 2009 Tax Notes to

finance and pay for a portion of the operating expenditures of the City in the current 2008/2009 fiscal year of the City in anticipation of the collection of Pledged Taxes and the issuance of the Series 2009 Tax Notes is hereby approved and authorized.

Section 3. Maximum Amount of Series 2009 Notes Authorized. The City Council hereby determines, upon information and advice provided by the Finance Director, that the maximum amount of Series 2009 Tax Notes that the City can issue in compliance with the Tax Note Test is \$97,195,000 based on 50% of the operating tax levy for the current fiscal year, which is \$194,399,198.

Section 4. Issuance of Series 2009 Notes. To pay for part of the operating expenditures of the City for the current fiscal year, pursuant to Act 34, the Charter and applicable law, the City shall borrow the sum, including any net original issue premium, of not to exceed \$97,195,000 in original principal amount, as finally determined in the Sale Order, and issue the Series 2009 Tax Notes therefor. Notwithstanding the foregoing, if the City's Finance Director provides a certificate containing updated information prior to the delivery of the Series 2009 Tax Notes indicating that the maximum amount of Series 2009 Tax Notes may be higher than the amounts set forth in Section 3 hereof and remain in compliance with the requirements of the Tax Note Test, then the maximum amount of the Series 2009 Tax Notes authorized in this Section 4 (including any original issue premium) shall be increased to the maximum amount allowable pursuant to the Tax Note Test, subject to approval of such increased amount by the Michigan Department of Treasury.

The proceeds of the Series 2009 Notes shall be used to pay for operating expenditures of the City, as defined in Act 34, and to pay Issuance Costs, such amounts in each case to be finally determined in the Sale Order. The Series 2009 Tax Notes shall be issuable as one or more separate series of notes, may mature at separate times not later than the Maturity Date and may bear such further distinctive designations of the City as determined by the Finance Director in the Sale Order.

Section 5. Series 2009 Notes Details; Issuance in Series; Registration and Redemption of Notes. The Series 2009 Tax Notes shall be designated TAX ANTICIPATION NOTES, SERIES 2009, with such further designations beginning with the letter "A" as may be set forth in the Sale Order, and shall be payable out of the Pledged Taxes in accordance with Act 34 as set forth more fully in Section 6 hereof. The Series 2009 Tax Notes shall be issued as fixed rate notes or as variable rate notes in such amounts as determined in the Sale Order, shall be numbered in some convenient manner, and shall mature on the Maturity Date as shall be determined in the Sale Order. In the event that the Series 2009 Notes are prepaid prior to the Maturity Date, the Series 2009 Notes may be subject to a prepayment charge as determined by the Finance Director and set forth in the Sale Order and the form of the Series 2009 Notes as delivered.

The Series 2009 Notes shall bear interest at a rate or rates determined in the Sale Order (the "Base Rates"), but within the limitations of Act 34. The Series 2009 Notes may bear interest at a default rate in excess of the Base Rates and the Base Rates may be subject to increase if the Series 2009 Notes are deemed taxable or if there is a change in law which reduces the yield on the Series 2009 Notes to the registered owners thereof, all subject to the terms and conditions approved by the Finance Director and as specified in the Sale Order and in



the final form of the Series 2009 Notes. In the event that due to the foregoing interest rate adjustments the effective interest rate on the Series 2009 Tax Notes exceeds the maximum permissible rate thereof, the Finance Director is authorized to adjust subsequent interest payments to the registered owners of the Series 2009 Notes in the manner as determined by the Finance Director and confirmed in the Sale Order and the final form of the Series 2009 Notes. The Series 2009 Tax Notes may be sold at an aggregate net discount (distinct from any compensation to be paid to the Underwriters in the form of a discount or any other Issuance Costs payable from the Series 2009 Notes) of not greater than 3%, all as shall be determined in the Sale Order, provided that the true interest cost (TIC) of the Series 2009 Tax Notes based upon the initial Base Rates shall not be greater than 8.00%. Except as hereinafter provided, interest on each of the Series 2009 Tax Notes shall be payable at the applicable Maturity Date to the registered owner of record as of the applicable Regular Record Date. Interest on the Series 2009 Tax Notes shall be calculated on such basis as is set forth in the Sale Order. The principal and interest of the Series 2009 Notes shall be payable at the Transfer Agent as principal paying agent or at such other co-paying agents as may be designated in the Sale Order, upon presentation and surrender of the appropriate Series 2009 Notes.

The Series 2009 Notes shall be dated such date or dates as determined in the Sale Order and will be issued in Authorized Denominations. The registered owner of any Series 2009 Tax Note may exchange such Series 2009 Note for other Series 2009 Tax Notes, of the same series and like maturity in Authorized Denominations by surrendering the Series 2009 Notes to be exchanged at the designated office of the Transfer Agent, together with an assignment duly executed by the registered owner thereof or his attorney or legal representative in such form as shall be satisfactory to the Transfer Agent.

All of the Series 2009 Notes will be issued in a book-entry system of registration, and actual purchasers of the Series 2009 Notes will not receive certificated Series 2009 Notes; provided, however, that the Finance Director may determine not to continue the system of book-entry registration, in which event fully registered note certificates, subject to the transfer and exchange requirements of this Resolution, shall be issued to the registered owners of the Series 2009 Notes. It is intended that the Series 2009 Notes be registered so as to participate in a securities depository system (the "DTC System") with DTC, as set forth herein. Each of the Series 2009 Tax Notes shall be initially issued in the form of a separate single fully registered note in the amount of each separate stated maturity thereof, if any. Upon initial issuance, the ownership of each such Series 2009 Note shall be registered in the name of Cede & Co., as the nominee of DTC, and except as provided below with respect to termination of the book-entry only system, all of the outstanding Series 2009 Notes shall be registered in the name of Cede & Co., as the nominee of DTC. The Finance Director is authorized to execute and deliver such letters to or agreements with DTC as shall be necessary to effectuate the DTC system, including the Representation Letter. At the discretion of the Finance Director as confirmed in the Sale Order, if the Series 2009 Notes are privately placed with a bond purchaser, the bond purchaser shall be the registered owner of the Series 2009 Notes and this paragraph and the following two paragraphs and the provisions of this Resolution regarding the DTC System of registration shall be disregarded and of no force or effect.

With respect to Series 2009 Notes registered in the name of Cede & Co., as nominee of DTC, the City and the Transfer Agent shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which DTC holds Series 2009 Notes from time to time as securities depository (a "Depository Participant") or to any Person on behalf of whom such a Depository Participant holds an interest in the Series 2009 Notes (an "Indirect Participant"). Without limiting the immediately preceding sentence, the City and the Transfer Agent shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., any Depository Participant or any Indirect Participant with respect to any ownership interest in the Series 2009 Notes, (ii) the delivery to any Depository Participant or any Indirect Participant or any other Person, other than a registered owner of a Series 2009 Note, of any notice with respect to the Series 2009 Notes, or (iii) the payment to any Depository Participant or any Indirect Participant or any other Person, other than a registered owner of a Series 2009 Note, of any amount with respect to principal of or interest on the Series 2009 Notes. While in the DTC System, no Person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a Series 2009 Note certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Resolution. Upon delivery by DTC to the Transfer Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Resolution with respect to interest checks or drafts being mailed to the registered owner, the word "Cede & Co." in this Resolution shall refer to such new nominee of DTC; and upon receipt of such a notice the Transfer Agent shall promptly deliver a copy of the same to each paying agent, if any.

In the event that (a) the City determines that DTC is incapable of discharging the responsibilities described herein and in the Representation Letter, (b) the Representation Letter shall be terminated for any reason or (c) DTC or the City determines that it is in the best interest of the beneficial owners of any series of the Series 2009 Notes that they be able to obtain certificated notes, the City shall notify DTC and DTC Participants of the availability through DTC of note certificates and such series of the Series 2009 Notes shall no longer be restricted to being registered in the name of Cede & Co., as nominee of DTC. At that time, the City may determine that such series of the Series 2009 Notes shall be registered in the name of and deposited with a successor depository operating a securities depository system, as may be acceptable to the City, or such depository's agent or designee, and if the City does not select such alternate securities depository system then such series of the Series 2009 Notes may be registered in whatever name or names the registered owners of such series of the Series 2009 Notes transferring or exchanging such series of the Series 2009 Notes shall designate, in accordance with the provisions hereof.

Notwithstanding any other provisions of this Resolution to the contrary, so long as any Series 2009 Note is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Series 2009 Note and all notices with respect to such Series 2009 Note shall be made and given, respectively, in the manner provided in the Representation Letter.

The Series 2009 Notes may or may not be subject to redemption prior to maturity as determined by the Finance Director in the Sale Order.

Section 6. Payment of Series 2009 Tax Notes. The full faith and credit of the City is hereby irrevocably pledged for the payment of principal of and interest on the Series 2009 Tax Notes and in case of insufficiency the Pledged Taxes for the payment thereof, the City hereby irrevocably pledges to levy ad valorem taxes in the 2009/2010 fiscal year of the City on all taxable property in the City, within the applicable constitutional, statutory and charter limitations, for the purpose of paying for a portion of the operating expenditures of the City and for the repayment of the Series 2009 Tax Notes from the receipt thereof.

The City hereby covenants that to secure payment of the Series 2009 Tax Notes, from the first collections of Pledged Property Taxes, there shall be set aside in the Pledged Property Tax Account established under Section 8 hereof, to be used exclusively for the payment of principal and interest on the Series 2009 Tax Notes, a portion of each dollar collected that is not less than 125% of the percentage that the principal amount of the Series 2009 Tax Notes bears to the amount of the Pledged Property Taxes from which such dollar is collected until the amount set aside in the Pledged Property Tax Account is sufficient to pay in full the principal of and interest of the Series 2009 Tax Notes on the applicable Maturity Date. The requirements of the preceding sentence shall apply to each installment of Pledged Property Taxes collected by the City. If the amount of Pledged Property Taxes deposited in the Pledged Property Tax Account is less than the minimum monthly balance requirements (the "Minimum Monthly Balance"), if any, established by the Finance Director under the Sale Order and set forth in the final form of the Series 2009 Tax Notes, the City shall deposit the first collections of Pledged Income Taxes into the Note Repayment Fund in such amount as required to satisfy such deficiency. If the balance in the Note Repayment Fund exceeds the Minimum Monthly Balance requirement as of any date, the City may withdraw funds from the Pledged Income Tax Account in the amount of such surplus; provided, that funds may not be withdrawn from the Pledged Property Taxes Account even if the amounts on deposit exceed the Minimum Monthly Balance requirements.

Subject to Section 8 hereof, moneys on deposit in the Note Repayment Fund may be used only to pay the outstanding principal of and interest on the Series 2009 Tax Notes. If the City determines that issuing the Series 2009 Tax Notes will result in a deficiency in the funds available to pay the necessary operating expenditures of the City during the 2009/2010 fiscal year, the City shall levy additional taxes in the future within applicable constitutional, charter, and statutory limits to prevent a continuation of the deficiency from year to year.

After the payment in full of all principal of and interest on the Series 2009 Tax Notes at the applicable Maturity Date or thereafter and if the City has no further payment obligations to the holders of such Series 2009 Tax Notes, and the City has paid all amounts owed to any credit enhancement provider which has paid principal of and interest on the Series 2009 Tax Notes, the balance on deposit in the Note Repayment Fund may be disbursed to the City for use as provided by Act 34 upon the filing with the Transfer Agent of a certificate of the Finance Director stating that no further obligations are due from the City to holders of the Series 2009 Tax Notes or to any credit enhancement provider with respect thereto.

The City hereby covenants as long as the Series 2009 Notes are outstanding, it will not issue any additional obligations payable from the Pledged Taxes on a parity basis with the Series 2009 Notes.

Section 7. Credit Enhancement and Other Agreements. The Finance Director is authorized to negotiate, obtain and enter into one or more agreements with respect to a letter of credit, policy of bond insurance, surety bond, guarantee or similar instrument issued by a financial, insurance or other institution, and which provides security in respect of all or part of the Series 2009 Notes, provided that the Finance Director determines that such credit enhancement is in the best interests of the City. The Finance Director is also authorized to obtain and enter into one or more forward commitments to provide a letter of credit, bond insurance, a surety bond, guarantee or similar instrument issued by a financial, insurance or other institution, and which provides security in respect of any amount of Series 2009 Notes which may be issued subsequent to the initial issue of Series 2009 Notes, as the Finance Director shall determine, provided that the Finance Director determines that such forward commitment for such credit enhancement is in the best interests of the City. The Finance Director is hereby authorized to pay for the cost of such forward commitment from the proceeds of the Series 2009 Notes or any other funds of the City legally available therefor.

In connection with the execution of any of the agreements authorized by this Section 8, the Finance Director is authorized to include in the Sale Order, such covenants and agreements of the City as shall be necessary or appropriate, and, if necessary or appropriate, to appoint a trustee to further secure payment of the Series 2009 Notes and to prescribe the powers and duties of such trustee in the Sale Order.

Section 8. Funds and Accounts: Flow of Funds. There is hereby established pursuant to this Resolution a trust fund to be held by the City and designated the "Note Proceeds Fund Series 2009" for receipt of the proceeds of the Series 2009 Notes, except for accrued interest, if any.

There is hereby established pursuant to this Resolution a special trust fund to be held by the City in a bank account separate from any other money of the City, which bank account may be established with and held by the purchaser of the Series 2009 Notes, as determined by the Finance Director and specified in the Sale Order and designated the "Note Repayment Fund, Series 2009" (the "Note Repayment Fund"). The Finance Director is authorized to establish within the Note Repayment Fund two subaccounts for the Series 2009 Tax Notes designated, the "Pledged Property Tax Account" and the "Pledged Income Tax Account" and such further subaccounts as the Finance Director deems necessary or appropriate. Moneys in the Note Repayment Fund shall not be commingled with any other moneys and shall be used only to pay the Series 2009 Notes. There shall be deposited in the Pledged Property Tax Account the Pledged Property Taxes collected by the City for repayment of the Series 2009 Tax Notes in accordance with the set aside requirement of Act 34 and this Resolution pursuant to Section 6 hereof. There shall be deposited in the Pledged Income Tax Account, the Pledged Income Taxes received by the City for repayment of the Series 2009 Notes in accordance with the requirements of Section 6 of this Resolution. Until the Series 2009 Notes are paid in full and any obligations to a provider of credit enhancement with respect thereto have been satisfied, money in the Note Repayment Fund shall be used for no other purpose other than to pay Series 2009 Notes issued under this Resolution.

Anything in this Section 8 to the contrary notwithstanding, in the event the City obtains a direct pay letter of credit to pay principal of and interest on the Series 2009 Tax Notes when due, then within the Note Repayment Fund, there shall be established a Payment and Reimbursement Subaccount and a Credit Facility Drawing Subaccount. All Pledged Taxes set aside in accordance with Act 34 and/or this Resolution shall be deposited in the Payment and Reimbursement Subaccount of the Note Repayment Fund. Amounts drawn on a letter of credit shall be deposited in the Credit Facility Drawing Subaccount and shall be used to pay principal of and interest on the Series 2009 Notes when due. Moneys in a Payment and Reimbursement Subaccount shall first be used to the extent necessary to pay, when due, principal of and interest on the Series 2009 Notes. To the extent that moneys in a Payment and Reimbursement Subaccount are not needed for such purpose as a result of payment of such principal and interest by a draw on a letter of credit, such moneys shall be used to reimburse the applicable letter of credit provider.

Section 9. Series 2009 Note Proceeds. From the proceeds of the sale of the Series 2009 Notes there shall be immediately deposited in the Note Repayment Fund an amount equal to the accrued interest, if any, received on the delivery of the Series 2009 Tax Notes.

The balance of the proceeds of the sale of the Series 2009 Notes shall be deposited in the Note Proceeds Fund Series 2009 and used to pay for Issuance Costs and operating expenditures of the City for the current fiscal year (2008/2009).

Section 10. Series 2009 Note Forms. The Series 2009 Tax Notes shall be in substantially the form set forth in Exhibit A attached hereto, with such changes and additions (including without limitation, to reflect any applicable credit enhancement or requirements of the purchasers of the Series 2009 Notes) as shall be established by the Finance Director pursuant to the Sale Order within the parameters of this Resolution.

Section 11. Covenants Regarding Exclusion of Interest on the Series 2009 Notes for Federal Tax Purposes. The City hereby covenants and represents with the registered owners of the Series 2009 Notes that so long as any of the Series 2009 Notes remain outstanding and unpaid as to either principal or interest, the City shall, to the extent permitted by law, take all actions within its control to maintain, and will refrain from taking any action which would impair the exclusion of the interest on the Series 2009 Notes from gross income for federal income tax purposes under the Code, including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Series 2009 Notes proceeds and moneys deemed to be Series 2009 Notes proceeds, and to prevent the Series 2009 Notes from being or becoming "private activity bonds" as that term is used in Section 141 of the Code or an "arbitrage bond," as that term used in Section 148 of the Code.

Section 12. Continuing Disclosure. Unless otherwise set forth in the Sale Order because of an exemption from Rule 15c2-12 (the "Rule"), the City hereby agrees to abide by the provisions of the Rule so long as any Series 2009 Notes are outstanding. The Finance Director is hereby authorized to execute one or more continuing disclosure undertakings of the City which comply with the provisions of the Rule.

Section 13. Defeasance. In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or irrevocable call for earlier optional redemption, the principal of, premium, if any, and interest on the applicable series of the Series 2009 Notes shall be deposited in trust, this Resolution shall be defeased in respect of such Series 2009 Notes and the owners of such Series 2009 Notes shall have no further rights under this Resolution except to receive payment of the principal of, premium, if any, and interest on such Series 2009 Notes from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange notes as provided herein.

Section 14. Sale of Series 2009 Notes.

(a) The Series 2009 Notes shall be sold at negotiated sale to the Underwriters named in the Purchase Contract in a form on file with the Finance Director, with such changes thereto as the Finance Director shall determine are in the best interests of the City, within the parameters established herein. Such changes within the parameters of this Resolution shall be conclusively established by the Finance Director's execution and delivery of the applicable Purchase Contract to the representative of the Underwriters (the "Representative"). The Finance Director is authorized to accept, on behalf of the City, an offer from the Representative to purchase the applicable Series 2009 Notes wherein the aggregate compensation to be paid to the Underwriters thereof shall not be more than 1% of the original principal amount of the applicable Series 2009 Notes, on terms and conditions provided in the Purchase Contract approved by the Finance Director. The Finance Director is authorized to negotiate additional terms and covenants with the Underwriters as may be necessary to assure repayment of the debt service on the Series 2009 Notes, which additional terms and covenants shall be incorporated in the Purchase Contract, or the final forms of the Series 2009 Notes and confirmed in the Sale Order.

(b) The sale of the Series 2009 Notes to the Underwriters pursuant to a negotiated sale is hereby approved. The reasons for choosing a negotiated sale instead of a competitive sale include the belief of the City Council, based upon the recommendation of the Finance Director and the City's Financial Advisors, that a negotiated sale will allow the Series 2009 Notes to be offered to investors in the most efficient manner possible while also allowing sufficient flexibility to adjust to market structuring and timing demands in order to result in the lowest possible borrowing costs to the City.

The Purchase Contract shall be dated the date of the sale of the applicable Series 2009 Notes. The Finance Director is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City and, upon execution by the Representative, to receive the good faith check, if any, described therein.

(c) The Finance Director is authorized to determine whether to require a good faith check from the Underwriters or, in lieu thereof, to require the Underwriters to pay liquidated damages to the City for the failure (other than as permitted by the Purchase Contract) to accept delivery of, and pay for, the Series 2009 Notes.

Section 15. Delegation of Authority to, and Authorization of Actions of, Finance Director.

(a) The Finance Director is authorized to exercise the authority and make the determinations authorized by Section 315(1)(d) of Act 34 and shall determine, in addition to any determinations authorized elsewhere in this Resolution, on the basis of his evaluation of the maximum amount of Series 2009 Tax Notes which can be sold, given anticipated interest rates or for any other reasons, whether to issue the full authorized amount of the Series 2009 Tax Notes as specified in Section 3 of this Resolution and whether to issue the Series 2009 Tax Notes as two or more issues. If the Finance Director determines to offer either of the Series 2009 Tax Notes as more than one issue, then each separate issue shall conform to the requirements established in this Resolution, shall bear a distinctive designation, consistent with the definition of the term "Series 2009 Tax Notes" herein, as shall be determined by the Finance Director. In such case the Finance Director shall have the power and authority to make all determinations and decisions with respect to each such issue. The Finance Director may also cause the preparation of and approve the form and distribution of one or more preliminary official statements (collectively, the "Preliminary Official Statement") and final official statements (collectively, the "Official Statement") or other offering materials to be used in conjunction with the sale or offering of the Series 2009 Notes and deem any Preliminary Official Statement "final" for purposes of the Rule. The Finance Director shall also determine and establish, in accordance with this Resolution, the Maturity Date or dates for the Series 2009 Notes.

(b) The Finance Director is hereby authorized and directed to do and perform any and all acts and things with respect to the Series 2009 Notes which are necessary or appropriate to carry into effect, consistent with this Resolution, the authorizations herein contained, including without limitation, obtaining financial advisory services, securing ratings by bond rating agencies, acquiring bond insurance, letter of credit, surety bond, guarantee or similar instrument issued by a financial, insurance or other institution, and which provides security in respect of all or part of the Series 2009 Notes, printing the Series 2009 Notes (if required), and incurring reasonable fees, costs and expenses incidental to the foregoing, for and on behalf of the City.

(c) The Mayor or, if permitted by law, the Finance Director, is authorized to file applications and to pay the related fees, if any, to the Michigan Department of Treasury at his discretion under Act 34 for one or more Orders of Approval to issue all or a portion of the Series 2009 Notes, and such waivers or other Treasury approvals as necessary to implement the sale, delivery and security for the Series 2009 Notes as authorized herein, and as required by the Michigan Department of Treasury or Act 34.

(d) All determinations and decisions of the Finance Director with respect to the issuance and sale of the Series 2009 Notes as permitted or required by this Resolution shall be ratified, confirmed and approved in the Sale Order.

(e) Except as set forth in Section 18 hereof, during the Finance Director's absence or disability, or while the Finance Director's position is vacant, the Deputy Finance Director, any

person serving as Finance Director or Deputy Finance Director in an acting or interim capacity, or any person designated by the Mayor in writing shall exercise all the powers, perform all the duties and make all the determinations required or permitted under this Resolution with respect to the Series 2009 Notes.

Section 16. Transfer Agent. The initial note registrar, paying agent, and Transfer Agent for the Series 2009 Notes shall be U.S. Bank National Association, Detroit, Michigan.

Section 17. Execution of Series 2009 Notes. The Mayor and the Finance Director are hereby authorized and directed to execute the Series 2009 Notes by manual or facsimile signature for and on behalf of the City and in its name, to impress or imprint thereon or affix thereto the official seal of the City or a facsimile thereof and to deliver the Series 2009 Notes to the Underwriters upon receiving the purchase price therefor in lawful money of the United States. During the Finance Director's absence or disability or while the Finance Director's position is vacant, the person serving as administrative head of the Finance Department shall execute the Series 2009 Notes in place of the Finance Director.

Section 18. Official Statement. Circulation of the Preliminary Official Statement, if any, and the Official Statement by the Underwriters shall be approved by the Finance Director, which approval shall be ratified in the Sale Order. The Finance Director is hereby authorized to execute the Official Statement with respect to the Series 2009 Notes in substantially the form of the Preliminary Official Statement, if any, or in such form and with such changes as the Finance Director may authorize and containing the business terms set forth in the Sale Order. Anything in this Section 18 to the contrary notwithstanding, in the event that the Series 2009 Notes are privately placed with a bond purchaser, at the discretion of the bond purchaser, and subject to receipt by the City of an appropriate investment certificate from such bond purchaser, the Series 2009 Notes may be sold without a Preliminary Official Statement or final Official Statement.

Section 19. Ratification. All determinations and decisions of the Finance Director and of persons authorized herein to act during the Finance Director's absence or disability, or while the Finance Director's position is vacant, with respect to the issuance and sale of the Series 2009 Notes as permitted or required by this Resolution or by law are hereby ratified, confirmed and approved.

Section 20. Additional Authorization. The Mayor, City Clerk, Finance Director, other officials of the City, and their deputies and staff, or any of them, are hereby authorized to execute and deliver such certificates, documents, instruments, opinions and other papers as may be deemed necessary or appropriate to complete the sale, execution and delivery of the Series 2009 Notes as determined by such persons executing and delivering the foregoing items.

Section 21. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the City and any registered owner of the Series 2009 Notes.

Section 22. Appointment of Note Counsel. The appointment of the law firm of Miller, Canfield, Paddock and Stone, P.L.C., of Detroit, Michigan as Note Counsel for the Series 2009 Notes is hereby ratified and confirmed, notwithstanding the periodic representation



by Miller, Canfield, Paddock and Stone, P.L.C., in unrelated matters of other parties and potential parties to the issuance of the Series 2009 Notes. The fees and expenses of Miller, Canfield, Paddock and Stone, P.L.C., shall be payable as part of the Issuance Costs from the proceeds of the Series 2009 Notes or other available funds of the City in accordance with the letter of such firm on file with the Finance Director.

Section 23. Repeal; Savings Clause. The provisions of the Original Note Resolution pertaining to the Revenue Notes shall remain in full force and in full effect. All other ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Section 24. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution. The paragraph headings in this Resolution are furnished for convenience of reference only and shall not be considered to be part of this Resolution.

Section 25. Publication. This Resolution shall be published in full in The Detroit Legal News, a newspaper of general circulation in the City qualified under State law to publish legal notices, promptly after its adoption.

Section 26. Effective Date. This Resolution shall be effective immediately upon adoption.

**EXHIBIT A**

**TAX NOTE FORM**

NOTICE: Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Detroit or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF WAYNE  
CITY OF DETROIT  
TAX ANTICIPATION NOTE  
SERIES 2009 (A/B)**

Interest Rate		Original	
<u>Per Annum</u>	<u>Maturity Date</u>	<u>Issue Date</u>	<u>CUSIP</u>

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that the City of Detroit, County of Wayne, State of Michigan (the "City") hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner stated above, on the Maturity Date stated above, the Principal Amount stated above, together with interest thereon from the Original Issue Date stated above until the Maturity Date stated above at the Interest Rate Per Annum stated above, calculated on the basis of a 360-day year and actual days elapsed, in lawful money of the United States of America, upon presentation and surrender of this Note, at the designated office of U.S. Bank National Association, Detroit, Michigan, as Transfer Agent.

This Note is issued pursuant to and in accordance with the Constitution of the State of Michigan of 1963, statutes of the State of Michigan (the "State") and the Charter of the City of Detroit pursuant to and in accordance with a resolution duly adopted by the City Council of the City of Detroit on \_\_\_\_\_, 2009 (the "Note Resolution"), for the purpose of providing funds

to pay for a portion of the operating expenditures of the City for the City's fiscal year beginning July 1, 2008.

This Note is issued in anticipation of the receipt by the City of certain ad valorem property taxes levied on all taxable property in the City in the next succeeding fiscal year 2009/2010 of the City (the "Pledged Property Taxes") and certain income taxes levied by the City in the next succeeding fiscal year 2009/2010 of the City (the "Pledged Income Taxes") and collected in the next succeeding fiscal year of the City (together, the "Pledged Taxes"), which Pledged Taxes shall be set aside in a Note Repayment Fund in accordance with the Note Resolution for the prompt payment of the principal of and the interest on this Note when due. The City has irrevocably pledged and does hereby irrevocably pledge to levy the Pledged Taxes in the next succeeding fiscal year of the City for the purpose of paying for operating expenditures of the City and for the repayment of the notes of this series (the "Notes") from the receipt thereof. Additionally, the City has irrevocably pledged, and does hereby irrevocably pledge to set aside from the collection of the Pledged Property Taxes a portion of each dollar of Pledged Property Taxes collected by the City in its 2009/2010 fiscal year that is not less than 125% of the percentage that the principal amount of all notes issued under the Note Resolution and secured by Pledged Property Taxes bear to the amount of Pledged Property Taxes from which such dollar is collected until the amount set aside in the Note Repayment Fund for all Notes is sufficient to pay in full the principal of and interest on the Notes. In the event of any deficiency in the Monthly Balance Requirement (as defined in the Sale Order), the City shall deposit sufficient Pledged Income Taxes to satisfy such deficiency.

This Note is of equal standing and priority of lien as to the Pledged Taxes with the City's \$\_\_\_\_\_ original principal amount Tax Anticipation Notes, Series 2009 ( ). As long as the Notes are outstanding, the City shall not issue additional obligations payable from the Pledged Taxes on a parity basis with the Notes.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and to be performed, precedent to and in the issuance of this Note and the Notes of this series, do exist, have happened and have been performed in due time, form and manner as required by the Note Resolution and the Constitution and statutes of the State of Michigan, and that the total indebtedness of the City, including this Note and the series of Notes of which this is one, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the City of Detroit, by authority of its City Council, has caused this Note to be signed for and on its behalf and in its name by manual or facsimile signatures of the Mayor and Finance Director of the City, and the official seal of the City or a facsimile thereof to be impressed or imprinted thereon, all as of the \_\_\_\_ day of \_\_\_\_, 2009.

CITY OF DETROIT

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Finance Director

[SEAL]

CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes described in the within-mentioned Note Resolution.

U.S. BANK NATIONAL ASSOCIATION,  
Transfer Agent

By: \_\_\_\_\_

Date of Authentication: \_\_\_\_\_, 2009

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please print or typewrite name and address of transferee) the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature Guaranteed

NOTICE: The signature(s) to this assignment must correspond with the name as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation, or anyone in a representative capacity, proof of such person's authority to act must accompany the Note.

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program. The Transfer Agent will not effect transfer of this Note unless the information concerning the transferee requested below is provided.

PLEASE INSERT SOCIAL SECURITY  
NUMBER OR OTHER IDENTIFYING  
NUMBER OF TRANSFEREE.

Name and Address: \_\_\_\_\_

\_\_\_\_\_  
(Include information for all joint owners if the  
Note is held by joint account.)

(Insert number for first named transferee if  
held by joint account)


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Attachment II

# MILLER CANFIELD

## MEMORANDUM

TO: Joseph L. Harris  
Chief Financial Officer, City of Detroit

FROM: Harold W. Bulger, Jr. 

RE: Questions Regarding Proposed Detroit Tax Anticipation Notes, Series 2009

DATE: April 8, 2009

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Attached is correspondence from Jerry Pokorski raising questions with respect to the proposed issuance of Tax Anticipation Notes, Series 2009 ("TANS") by the City under the Note Authorizing Resolution (the "Resolution") presented to the City Council. The purpose of this Memorandum is to address the legal issues raised in questions 2 and 3.

### Question 2A

Citing Section 401 of the Revised Municipal Finance Act, Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), MCL 141.2401, Mr. Pokorski first asks whether income taxes are levied.

### Answer 2A

To levy a tax means to impose a tax. The term levy is not limited to ad valorem property taxes. City income taxes are levied or imposed on City income taxpayers. Section 3(1) of the City Income Tax Act, Act 284, Public Acts of Michigan, 1964, as amended ("Act 284") pursuant to which the City is authorized to impose an income tax, provides the following:

"The governing body of a city, by lawfully adopted ordinance that incorporates by reference the uniform city income tax set forth in Chapter 2 may levy, assess and collect an excise tax on income as provided in the ordinance. (Emphasis added.)

Mr. Pokorski's made a point about the uncertainty of calculating income taxes due in anticipating payment of debt service, but under the Resolution income taxes are not used in sizing the TANS. The Tax Note Test in the Resolution determines the maximum amount of TANS which can be issued. The Tax Note Test requires at least two times coverage of the principal amount of the TANS to the ad valorem property taxes collected. The Tax Note Test is based solely on 50% of the amount of ad valorem property taxes levied by the City for operating purposes in the prior (2008/2009) fiscal year and does not include the income taxes. This

**exclusion allows income taxes to serve as increased collateral to augment the coverage of taxes collected to the principal amount of TANs actually issued.**

Question 2B

Where does the law allow income taxes to be used to pay TANs?

Answer 2B

Under Section 401(1) of Act 34, the TANs in question are issued "in anticipation of and payable from taxes to be collected by the municipality for its then next succeeding fiscal year..." Nowhere in Act 34 is the term "taxes" defined. Under Section 403(2), it is clear that the taxes used to pay the TANs are collected for operating purposes which is exactly the use for which the City levies and collects ad valorem property taxes and income taxes. Act 34 does not say that TANs can only be issued in anticipation of ad valorem property taxes.

Further authority for paying the TANs with City income taxes is provided by Section 315(1)(c)(i) of Act 34 which states in pertinent part:

"In determining to issue a municipal security, a municipality may do 1 or more of the following: . . .

(c) Authorize principal and interest to be payable from 1 or more of the following:

(i) taxes or other revenues of the municipality

**This includes City income taxes as a legitimate source of payment for the TANs. Nothing in Act 284 prohibits the City from using income taxes to pay the TANs.**

Question 3

Where in the Resolution is it required that income taxes be levied or collected to pay the TANs?

Answer 3

**Mr. Pokorski correctly observes that the City income taxes are a type of secondary security to pay the TANs, since income taxes are only collected as Pledged Income Taxes under the Resolution to the extent necessary to compensate for any shortfalls in the collections of Pledged Property Taxes.**

The first sentence in Section 5 of the Resolution states that "The Series 2009 Tax Notes . . . shall be payable out of the Pledged Taxes in accordance with Act 34 as set forth more fully in Section 6 of the Resolution. Under Section 6 of the Resolution "the City shall deposit the first collections of **Pledged Income Taxes into the Note Repayment Fund in such amount as required to satisfy such deficiency**" in the collection of **Pledged Property Taxes**. Furthermore Section 8 of the Resolution requires the City to deposit into the Pledged Income Tax Account, the Pledged Income Taxes received by the City for repayment of the Series 2009 Notes in accordance with



the requirements of Section 6 of the Resolution. Finally, the Tax Note Form included in Exhibit A to the Resolution expressly provides "The City has irrevocably pledged and does hereby irrevocably pledge to levy the Pledged Taxes in the next succeeding fiscal year of the City for the purpose of paying for operating expenditures of the City and for repayment of the notes of this series (the "Notes") from the receipt thereof." The term "Pledged Taxes," of course, include both Pledged Property Taxes and Pledged Income Taxes. The terms of the Resolution and the TANs become a contract with the registered owners of the TANs.

### **CONCLUSION**

We intend to deliver our approving and enforceability opinions on the TANs when issued which includes enforceability of the pledge of ad valorem property taxes and income taxes as security to pay the TANs.

If you have any further questions, please let me know.

DISCLOSURE UNDER TREASURY CIRCULAR 230: The United States Federal tax advice contained in this document and its attachments, if any, may not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, nor is such advice intended or written to be used, and may not be used, by a taxpayer for the purpose of avoiding Federal tax penalties. Advice that complies with Treasury Circular 230's "covered opinion" requirements (and thus, may be relied on to avoid tax penalties) may be obtained by contacting the author of this document.

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